

§ 541.12

28 CFR Ch. V (7–1–00 Edition)

§ 541.12 Inmate rights and responsibilities.

Rights	Responsibilities
1. You have the right to expect that as a human being you will be treated respectfully, impartially, and fairly by all personnel.	1. You have the responsibility to treat others, both employees and inmates, in the same manner.
2. You have the right to be informed of the rules, procedures, and schedules concerning the operation of the institution.	2. You have the responsibility to know and abide by them.
3. You have the right to freedom of religious affiliation, and voluntary religious worship.	3. You have the responsibility to recognize and respect the rights of others in this regard.
4. You have the right to health care, which includes nutritious meals, proper bedding and clothing, and a laundry schedule for cleanliness of the same, an opportunity to shower regularly, proper ventilation for warmth and fresh air, a regular exercise period, toilet articles and medical and dental treatment.	4. It is your responsibility not to waste food, to follow the laundry and shower schedule, to maintain neat and clean living quarters, to keep your area free of contraband, and to seek medical and dental care as you may need it.
5. You have the right to visit and correspond with family members, and friends, and correspond with members of the news media in keeping with Bureau rules and institution guidelines.	5. It is your responsibility to conduct yourself properly during visits, not to accept or pass contraband, and not to violate the law or Bureau rules or institution guidelines through your correspondence.
6. You have the right to unrestricted and confidential access to the courts by correspondence (on matters such as the legality of your conviction, civil matters, pending criminal cases, and conditions of your imprisonment).	6. You have the responsibility to present honestly and fairly your petitions, questions, and problems to the court.
7. You have the right to legal counsel from an attorney of your choice by interviews and correspondence.	7. It is your responsibility to use the services of an attorney honestly and fairly.

Rights	Responsibilities
8. You have the right to participate in the use of law library reference materials to assist you in resolving legal problems. You also have the right to receive help when it is available through a legal assistance program.	8. It is your responsibility to use these resources in keeping with the procedures and schedule prescribed and to respect the rights of other inmates to the use of the materials and assistance.
9. You have the right to a wide range of reading materials for educational purposes and for your own enjoyment. These materials may include magazines and newspapers sent from the community, with certain restrictions.	9. It is your responsibility to seek and utilize such materials for your personal benefit, without depriving others of their equal rights to the use of this material.
10. You have the right to participate in education, vocational training and employment as far as resources are available, and in keeping with your interests, needs, and abilities.	10. You have the responsibility to take advantage of activities which may help you live a successful and law-abiding life within the institution and in the community. You will be expected to abide by the regulations governing the use of such activities.
11. You have the right to use your funds for commissary and other purchases, consistent with institution security and good order, for opening bank and/or savings accounts, and for assisting your family.	11. You have the responsibility to meet your financial and legal obligations, including, but not limited to, court-imposed assessments, fines, and restitution. You also have the responsibility to make use of your funds in a manner consistent with your release plans, your family needs, and for other obligations that you may have.

§ 541.13 Prohibited acts and disciplinary severity scale.

(a) There are four categories of prohibited acts—Greatest, High, Moderate, and Low Moderate (see table 3 for identification of the prohibited acts within each category). Specific sanctions are authorized for each category (see table 4 for a discussion of each sanction). Imposition of a sanction requires that the inmate first is found to have committed a prohibited act.

(1) *Greatest category offenses.* The Discipline Hearing Officer (DHO) shall impose and execute one or more of sanctions A through E. Sanction B.1 must be imposed for a VCCLEA inmate rated as violent (i.e., an inmate who, as specified in the Violent Crime Control and Law Enforcement Act of 1994, committed a crime of violence on or after September 13, 1994) and for a PLRA inmate (i.e., an inmate who has been sentenced for an offense committed on or after April 26, 1996). The DHO may impose and execute sanction F and/or G only in addition to execution of one or more of sanctions A through E. Except as noted in the sanction, the DHO may also suspend one or more additional sanctions A through G.

(2) *High category offenses.* The Discipline Hearing Officer shall impose and execute one or more of sanctions A through M, and, except as noted in the sanction, may also suspend one or more additional sanctions A through M. Sanction B.1 must be imposed for a VCCLEA inmate rated as violent and for a PLRA inmate. The Unit Discipline Committee shall impose and execute one or more of sanctions G through M, and may also suspend one or more additional sanctions G through M, except for a VCCLEA inmate rated as violent. All high category offense charges for a VCCLEA inmate rated as violent and for a PLRA inmate must be referred to the DHO.

(3) *Moderate category offenses.* The Discipline Hearing Officer shall impose at least one sanction A through N, but, except as noted in the sanction, may suspend any sanction or sanctions imposed. Sanction B.1 ordinarily must be imposed for a VCCLEA inmate rated as violent and for a PLRA inmate. Except for charges referred to the DHO, the Unit Discipline Committee shall impose at least one sanction G through N, but may suspend any sanction or sanctions imposed. The UDC ordinarily shall refer to the DHO a moderate category charge for a VCCLEA inmate rated as violent or for a PLRA inmate if the inmate had been found to have committed a moderate category offense during the inmate's current anniversary year (i.e., the twelve month period of time for which an inmate may be eligible to earn good conduct time).

The UDC must thoroughly document in writing the reasons why the charge for such an inmate was not referred to the DHO.

(4) *Low moderate category offenses.* The Discipline Hearing Officer shall impose at least one sanction B.1, or E through P. The Discipline Hearing Officer may suspend any E through P sanction or sanctions imposed (a B.1 sanction may not be suspended). Except for charges referred to the DHO, the Unit Discipline Committee (UDC) shall impose at least one sanction G through P, but may suspend any sanction or sanctions imposed. The UDC ordinarily shall refer to the DHO a low moderate category charge for a VCCLEA inmate rated as violent or for a PLRA inmate if the inmate had been found to have committed two low moderate category offenses during the inmate's current anniversary year (i.e., the twelve month period of time for which an inmate may be eligible to earn good conduct time). The UDC must thoroughly document in writing the reasons why the charge for such an inmate was not referred to the DHO.

(b) *Aiding* another person to commit any of these offenses, *attempting* to commit any of these offenses, and *making plans* to commit any of these offenses, in all categories of severity, *shall be considered the same as a commission of the offense itself.* In these cases, the letter "A" is combined with the offense code. For example, planning an escape would be considered as Escape and coded 102A. Likewise, attempting the adulteration of any food or drink would be coded 209A.

(c) Suspensions of any sanction cannot exceed six months. Revocation and execution of a suspended sanction require that the inmate first is found to have committed any subsequent prohibited act. Only the Discipline Hearing Officer (DHO) may execute, suspend, or revoke and execute suspension of sanctions A through F. The Discipline Hearing Officer (DHO) or Unit Discipline Committee (UDC) may execute, suspend, or revoke and execute suspensions of sanctions G through P. Revocations and execution of suspensions may be made only at the level (DHO or UDC) which originally imposed the sanction. The DHO now has

that authority for suspensions which were earlier imposed by the Inmate Discipline Committee (IDC).

(d) If the Unit Discipline Committee has previously imposed a suspended sanction and subsequently refers a case to the Discipline Hearing Officer, the referral shall include an advisement to the DHO of any intent to revoke that suspension if the DHO finds that the prohibited act was committed. If the DHO then finds that the prohibited act was committed, the DHO shall so ad-

vise the Unit Discipline Committee who may then revoke the previous suspension.

(e) The Unit Discipline Committee or Discipline Hearing Officer may impose increased sanctions for repeated, frequent offenses according to the guidelines presented in table 5.

(f) Sanctions by severity of prohibited act, with eligibility for restoration of forfeited and withheld statutory good time are presented in table 6.

TABLE 3—PROHIBITED ACTS AND DISCIPLINARY SEVERITY SCALE

Code	Prohibited acts	Sanctions
GREATEST CATEGORY		
The UDC shall refer all Greatest Severity Prohibited Acts to the DHO with recommendations as to an appropriate disposition.		
100	Killing	<p>A. Recommend parole date rescission or retardation.</p> <p>B. Forfeit earned statutory good time or non-vested good conduct time (up to 100%) and/or terminate or disallow extra good time (an extra good time or good conduct time sanction may not be suspended).</p> <p>B.1 Disallow ordinarily between 50 and 75% (27–41 days) of good conduct time credit available for year (a good conduct time sanction may not be suspended).</p> <p>C. Disciplinary Transfer (recommend).</p> <p>D. Disciplinary segregation (up to 60 days).</p> <p>E. Make monetary restitution.</p> <p>F. Withhold statutory good time (Note—can be in addition to A through E—cannot be the only sanction executed).</p> <p>G. Loss of privileges (Note—can be in addition to A through E—cannot be the only sanction executed).</p>
101	Assaulting any person (includes sexual assault) or an armed assault on the institution's secure perimeter (a charge for assaulting any person at this level is to be used only when serious physical injury has been attempted or carried out by an inmate)	
102	Escape from escort; escape from a secure institution (low, medium, and high security level and administrative institutions); or escape from a minimum institution <i>with</i> violence	
103	Setting a fire (charged with this act in this category only when found to pose a threat to life or a threat of serious bodily harm or in furtherance of a prohibited act of Greatest Severity, e.g., in furtherance of a riot or escape; otherwise the charge is properly classified Code 218, or 329)	
104	Possession, manufacture, or introduction of a gun, firearm, weapon, sharpened instrument, knife, dangerous chemical, explosive or any ammunition	
105	Rioting	
106	Encouraging others to riot	
107	Taking hostage(s)	
108	Possession, manufacture, or introduction of a hazardous tool (Tools most likely to be used in an escape or escape attempt or to serve as weapons capable of doing serious bodily harm to others; or those hazardous to institutional security or personal safety; e.g., hack-saw blade)	
109	(Not to be used)	
110	Refusing to provide a urine sample or to take part in other drug-abuse testing	
111	Introduction of any narcotics, marijuana, drugs, or related paraphernalia not prescribed for the individual by the medical staff	
112	Use of any narcotics, marijuana, drugs, or related paraphernalia not prescribed for the individual by the medical staff	
113	Possession of any narcotics, marijuana, drugs, or related paraphernalia not prescribed for the individual by the medical staff	
198	Interfering with a staff member in the performance of duties. (<i>Conduct must be of the Greatest Severity nature.</i>) This charge is to be used only when another charge of greatest severity is not applicable	
199	Conduct which disrupts or interferes with the security or orderly running of the institution or the Bureau of Prisons. (<i>Conduct must be of the Greatest Severity nature.</i>) This charge is to be used only when another charge of greatest severity is not applicable	

TABLE 3—PROHIBITED ACTS AND DISCIPLINARY SEVERITY SCALE—Continued

Code	Prohibited acts	Sanctions
HIGH CATEGORY		
200	Escape from unescorted Community Programs and activities and Open Institutions (minimum) and from outside secure institutions— <i>without</i> violence	A. Recommend parole date rescission or retardation.
201	Fighting with another person	B. Forfeit earned statutory good time or non-vested good conduct time up to 50% or up to 60 days, whichever is less, and/or terminate or disallow extra good time (an extra good time or good conduct time sanction may not be suspended).
202	(Not to be used)	B.1. Disallow ordinarily between 25 and 50% (14–27 days) of good conduct time credit available for year (a good conduct time sanction may not be suspended).
203	Threatening another with bodily harm or any other offense	C. Disciplinary transfer (recommend).
204	Extortion, blackmail, protection: Demanding or receiving money or anything of value in return for protection against others, to avoid bodily harm, or under threat of informing	D. Disciplinary segregation (up to 30 days).
205	Engaging in sexual acts	E. Make monetary restitution.
206	Making sexual proposals or threats to another	F. Withhold statutory good time.
207	Wearing a disguise or a mask	G. Loss of privileges: commissary, movies, recreation, etc.
208	Possession of any unauthorized locking device, or lock pick, or tampering with or blocking any lock device (includes keys), or destroying, altering, interfering with, improperly using, or damaging any security device, mechanism, or procedure	H. Change housing (quarters).
209	Adulteration of any food or drink	I. Remove from program and/or group activity.
210	(Not to be used)	J. Loss of job.
211	Possessing any officer's or staff clothing	K. Impound inmate's personal property.
212	Engaging in, or encouraging a group demonstration	L. Confiscate contraband.
213	Encouraging others to refuse to work, or to participate in a work stoppage	M. Restrict to quarters.
214	(Not to be used)	
215	Introduction of alcohol into BOP facility	
216	Giving or offering an official or staff member a bribe, or anything of value	
217	Giving money to, or receiving money from, any person for purposes of introducing contraband or for any other illegal or prohibited purposes	
218	Destroying, altering, or damaging government property, or the property of another person, having a value in excess of \$100.00 or destroying, altering, or damaging life-safety devices (e.g., fire alarm) regardless of financial value	
219	Stealing (theft; this includes data obtained through the unauthorized use of a communications facility, or through the unauthorized access to disks, tapes, or computer printouts or other automated equipment on which data is stored.)	
220	Demonstrating, practicing, or using martial arts, boxing (except for use of a punching bag), wrestling, or other forms of physical encounter, or military exercises or drill (except for drill authorized and conducted by staff)	
221	Being in an unauthorized area with a person of the opposite sex without staff permission	
222	Making, possessing, or using intoxicants	
223	Refusing to breathe into a breathalyzer or take part in other testing for use of alcohol	
224	Assaulting any person (charged with this act only when a less serious physical injury or contact has been attempted or carried out by an inmate)	
298	Interfering with a staff member in the performance of duties. (<i>Conduct must be of the High Severity nature.</i>) This charge is to be used only when another charge of high severity is not applicable	
299	Conduct which disrupts or interferes with the security or orderly running of the institution or the Bureau of Prisons. (<i>Conduct must be of the High Severity nature.</i>) This charge is to be used only when another charge of high severity is not applicable	

TABLE 3—PROHIBITED ACTS AND DISCIPLINARY SEVERITY SCALE—Continued

Code	Prohibited acts	Sanctions
MODERATE CATEGORY		
300	Indecent exposure	<p>A. Recommend parole date rescission or retardation.</p> <p>B. Forfeit earned statutory good time or non-vested good conduct time up to 25% or up to 30 days, whichever is less, and/or terminate or disallow extra good time (an extra good time or good conduct time sanction may not be suspended).</p> <p>B.1. Disallow ordinarily up to 25% (1–14 days) of good conduct time credit available for year (a good conduct time sanction may not be suspended).</p> <p>C. Disciplinary transfer (recommend).</p> <p>D. Disciplinary segregation (up to 15 days).</p> <p>E. Make monetary restitution.</p> <p>F. Withhold statutory good time.</p> <p>G. Loss of privileges: commissary, movies, recreation, etc.</p> <p>H. Change housing (quarters).</p> <p>I. Remove from program and/or group activity.</p> <p>J. Loss of job.</p> <p>K. Impound inmate's personal property.</p> <p>L. Confiscate contraband.</p> <p>M. Restrict to quarters.</p> <p>N. Extra duty.</p>
301	(Not to be used)	
302	Misuse of authorized medication	
303	Possession of money or currency, unless specifically authorized, or in excess of the amount authorized	
304	Loaning of property or anything of value for profit or increased return	
305	Possession of anything not authorized for retention or receipt by the inmate, and not issued to him through regular channels	
306	Refusing to work, or to accept a program assignment	
307	Refusing to obey an order of any staff member (May be categorized and charged in terms of greater severity, according to the nature of the order being disobeyed; e.g., failure to obey an order which furthers a riot would be charged as 105, Rioting; refusing to obey an order which furthers a fight would be charged as 201, Fighting; refusing to provide a urine sample when ordered would be charged as Code 110)	
308	Violating a condition of a furlough	
309	Violating a condition of a community program	
310	Unexcused absence from work or any assignment	
311	Failing to perform work as instructed by the supervisor	
312	Insolence towards a staff member	
313	Lying or providing a false statement to a staff member.	
314	Counterfeiting, forging or unauthorized reproduction of any document, article of identification, money, security, or official paper. (May be categorized in terms of greater severity according to the nature of the item being reproduced; e.g., counterfeiting release papers to effect escape, Code 102 or Code 200)	
315	Participating in an unauthorized meeting or gathering	
316	Being in an unauthorized area	
317	Failure to follow safety or sanitation regulations	
318	Using any equipment or machinery which is not specifically authorized	
319	Using any equipment or machinery contrary to instructions or posted safety standards	
320	Failing to stand count	
321	Interfering with the taking of count	
322	(Not to be used)	
323	(Not to be used)	
324	Gambling	
325	Preparing or conducting a gambling pool	
326	Possession of gambling paraphernalia	
327	Unauthorized contacts with the public	
328	Giving money or anything of value to, or accepting money or anything of value from: another inmate, or any other person without staff authorization	
329	Destroying, altering, or damaging government property, or the property of another person, having a value of \$100.00 or less	
330	Being unsanitary or untidy; failing to keep one's person and one's quarters in accordance with posted standards	

TABLE 3—PROHIBITED ACTS AND DISCIPLINARY SEVERITY SCALE—Continued

Code	Prohibited acts	Sanctions
331	Possession, manufacture, or introduction of a non-hazardous tool or other non-hazardous contraband (Tool not likely to be used in an escape or escape attempt, or to serve as a weapon capable of doing serious bodily harm to others, or not hazardous to institutional security or personal safety; Other non-hazardous contraband includes such items as food or cosmetics)	
398	Interfering with a staff member in the performance of duties. (<i>Conduct must be of the Moderate Severity nature.</i>) This charge is to be used only when another charge of moderate severity is not applicable	
399	Conduct which disrupts or interferes with the security or orderly running of the institution or the Bureau of Prisons. (<i>Conduct must be of the Moderate Severity nature.</i>) This charge is to be used only when another charge of moderate severity is not applicable	
LOW MODERATE CATEGORY		
400	Possession of property belong to another person	B.1. Disallow ordinarily up to 12.5% (1–7 days) of good conduct time credit available for year (to be used only where inmate found to have committed a second violation of the same prohibited act within 6 months); Disallow ordinarily up to 25% (1–14 days) of good conduct time credit available for year (to be used only where inmate found to have committed a third violation of the same prohibited act within 6 months) (a good conduct time sanction may not be suspended). E. Make monetary restitution. F. Withhold statutory good time. G. Loss of privileges: commissary, movies, recreation, etc. H. Change housing (quarters). I. Remove from program and/or group activity. J. Loss of job. K. Impound inmate's personal property. L. Confiscate contraband. M. Restrict to quarters. N. Extra duty. O. Reprimand. P. Warning.
401	Possessing unauthorized amount of otherwise authorized clothing	
402	Malingering, feigning illness	
403	Smoking where prohibited	
404	Using abusive or obscene language	
405	Tattooing or self-mutilation	
406	Unauthorized use of mail or telephone (Restriction, or loss for a specific period of time, of these privileges may often be an appropriate sanction G) (May be categorized and charged in terms of greater severity, according to the nature of the unauthorized use; e.g., the telephone is used for planning, facilitating, committing an armed assault on the institution's secure perimeter, would be charged as Code 101, Assault)	
407	Conduct with a visitor in violation of Bureau regulations (Restriction, or loss for a specific period of time, of these privileges may often be an appropriate sanction G)	
408	Conducting a business	
409	Unauthorized physical contact (e.g., kissing, embracing)	
498	Interfering with a staff member in the performance of duties. (<i>Conduct must be of the Low Moderate Severity nature.</i>) This charge is to be used only when another charge of low moderate severity is not applicable	
499	Conduct which disrupts or interferes with the security or orderly running of the institution or the Bureau of Prisons (<i>Conduct must be of the Low Moderate Severity nature.</i>) This charge is to be used only when another charge of low moderate severity is not applicable	

NOTE: *Aiding* another person to commit any of these offenses, *attempting* to commit any of these offenses, and *making plans* to commit any of these offenses, in all categories of severity, shall be considered the same as a commission of the offense itself.

TABLE 4—SANCTIONS

1. *Sanctions of the Discipline Hearing Officer:* (upon finding the inmate committed the prohibited act)

(a) *Recommend parole date rescission or retardation.* The DHO may make recommendations to the U.S. Parole Commission for retardation or rescission of parole grants. This may require holding fact-finding hearings

upon request of or for the use of the Commission.

(b) *Forfeit earned statutory good time, non-vested good conduct time, and/or terminate or disallow extra good time.* The statutory good time available for forfeiture is limited to an amount computed by multiplying the number of months served at the time of the offense for which forfeiture action is taken, by

the applicable monthly rate specified in 18 U.S.C. 4161 (less any previous forfeiture or withholding outstanding). The amount of good conduct time (GCT) available for forfeiture is limited to the total number of days in the "non-vested" status at the time of the misconduct (less any previous forfeiture). A forfeiture of good conduct time sanction may not be suspended. Disallowance of extra good time is limited to the extra good time for the calendar month in which the violation occurs. It may not be withheld or restored. The sanction of termination or disallowance of extra good time may not be suspended. Forfeited good conduct time will not be restored. Authority to restore forfeited statutory good time is delegated to the Warden. This decision may not be delegated lower than the Associate Warden level. Limitations on this sanction and eligibility for restoration are based on the severity scale. (See table 6)

(b.1) *Disallowance of good conduct time.* I. An inmate sentenced under the Sentencing Reform Act provisions of the Comprehensive Crime Control Act (includes the inmate who committed his or her crime on or after November 1, 1987) may not receive statutory good time, but is eligible to receive 54 days good conduct time credit each year (18 U.S.C. 3624(b)). Once awarded, the credit is vested, and may not be disallowed. However, for crimes committed on or after September 13, 1994 and prior to April 26, 1996, credit toward an inmate's service of sentence shall not be vested unless the inmate has earned or is making satisfactory progress toward a high school diploma or an equivalent degree, or has been exempted from participation because of a learning disability. For crimes committed on or after April 26, 1996, credit toward an inmate's service of sentence shall vest on the date the inmate is released from custody. Once disallowed, the credit may not be restored, except by immediate review or appeal action as indicated below. Prior to this award being made, the credit may be disallowed for an inmate found to have committed a prohibited act. A sanction of disallowance of good conduct time may not be suspended. Only the DHO can take action to disallow good conduct time. The DHO shall consider the severity of the prohibited act and the suggested disallowance guidelines in making a determination to disallow good conduct time. A decision to go above the guideline range is warranted for a greatly aggravated offense or where there is a repetitive violation of the same prohibited act that occurs within a relatively short time frame (e.g., within 18 months for the same greatest severity prohibited act, within 12 months for the same high severity prohibited act, and within 6 months for the same moderate severity prohibited act). A decision to go below the guidelines is warranted for strong mitigating factors. Any decision out-

side the suggested disallowance guidelines is to be documented and justified in the DHO report.

II. VCCLEA inmates rated as violent and PLRA inmates will ordinarily be disallowed good conduct time for each prohibited act they are found to have committed at a DHO hearing, consistent with the following:

(1) Greatest category offenses: A minimum of 40 days (or, if less than 54 days are available for the prorated period, a minimum of 75% of available good conduct time) for each act committed;

(2) High category offenses: A minimum of 27 days (or, if less than 54 days are available for the prorated period, a minimum of 50% of available good conduct time) for each act committed;

(3) Moderate category offenses: A minimum of 13 days (or, if less than 54 days are available for the prorated period, a minimum of 25% of available good conduct time) for each act committed if the inmate has committed two or more moderate category offenses during the current anniversary period;

(4) Low moderate category offenses: A minimum of 6 days (or, if less than 54 days are available for the prorated period, a minimum of 12.5% of available good conduct time) for each act committed if the inmate has committed three or more low moderate category offenses during the current anniversary period.

However, the DHO may, after careful consideration of mitigating factors (seriousness of the offense, the inmate's past disciplinary record, the lack of available good conduct time, etc.) choose to impose a lesser sanction, or even disallow no GCT for moderate and low moderate prohibited acts by VCCLEA inmates rated as violent or by PLRA inmates. The DHO must thoroughly detail the rationale for choosing to disallow less than 13 days or 6 days respectively. This will be documented in Section VII of the DHO report. Disallowances of amounts greater than 13 days or 6 days respectively will occur with repetitive offenses consistent with the guidelines in this (b.1).

III. The decision of the DHO is final and is subject only to review by the Warden to ensure conformity with the provisions of the disciplinary policy and by inmate appeal through the administrative remedy program. The DHO is to ensure that the inmate is notified that any appeal of a disallowance of good conduct time must be made within the time frames established in the Bureau's rule on administrative remedy procedures.

IV. Except for VCCLEA inmates rated as violent or PLRA inmates, Sanction B.1 may be imposed on the Low Moderate category only where the inmate has committed the same low moderate prohibited act more than one time within a six-month period.

(c) *Recommend disciplinary transfer.* The DHO may recommend that an inmate be

transferred to another institution for disciplinary reasons. Where a present or impending emergency requires immediate action, the Warden may recommend for approval of the Regional Director the transfer of an inmate prior to either a UDC or DHO hearing. Transfers for disciplinary reasons prior to a hearing before the UDC or DHO may be used only in emergency situations and only with approval of the Regional Director. When an inmate is transferred under these circumstances, the sending institution shall forward copies of incident reports and other relevant materials with completed investigation to the receiving institution's Discipline Hearing Officer. The inmate shall receive a hearing at the receiving institution as soon as practicable under the circumstances to consider the factual basis of the charge of misconduct and the reasons for the emergency transfer. All procedural requirements applicable to UDC or DHO hearings contained in this rule are appropriate, except that written statements of unavailable witnesses are liberally accepted instead of live testimony.

(d) *Disciplinary segregation.* The DHO may direct that an inmate be placed or retained in disciplinary segregation pursuant to guidelines contained in this rule. Consecutive disciplinary segregation sanctions can be imposed and executed for inmates charged with and found to have committed offenses that are part of different acts only. Specific limits on time in disciplinary segregation are based on the severity scale. (See table 6)

(e) *Make monetary restitution.* The DHO may direct that an inmate reimburse the U.S. Treasury for any damages to U.S. Government property that the individual is determined to have caused or contributed to.

(f) *Withholding statutory good time.* The DHO may direct that an inmate's good time be withheld. Withholding of good time should not be applied as a universal punishment to all persons in disciplinary segregation status. Withholding is limited to the total amount of good time creditable for the single month during which the violation occurs. Some offenses, such as refusal to work at an assignment, may be recurring, thereby permitting, when ordered by the DHO, consecutive withholding actions. When this is the intent, the DHO shall specify at the time of the initial DHO hearing that good time may be withheld until the inmate elects to return to work. During the running of such a withholding order, the DHO shall review the offense with the inmate on a monthly basis. For an on-going offense, staff need not prepare a new Incident Report or conduct an investigation or initial hearing (UDC). The

DHO shall provide the inmate an opportunity to appear in person and to present a statement orally or in writing. The DHO shall document its action on, or by an attachment to, the initial Institution Discipline report. If further withholding is ordered, the DHO shall advise the inmate of the inmate's right to appeal through the Administrative Remedy Procedure (part 542). Only the Warden may restore withheld statutory good time. This decision may not be delegated lower than the Associate Warden level. Restoration eligibility is based on the severity scale. (See table 6)

2. *Sanctions of the Discipline Hearing Officer/Unit Discipline Committee:* (upon finding the inmate committed the prohibited act)

(g) *Loss of privileges:* The DHO or UDC may direct that an inmate forego specific privileges for a specified period of time. Ordinarily, loss of privileges is used as a sanction in response to an abuse of that privilege. However, the DHO or UDC may impose a loss of privilege sanction not directly related to the offense when there is a lack of other appropriate sanctions or when imposition of an appropriate sanction previously has been ineffective.

(h) *Change housing (quarters).* The DHO or UDC may direct that an inmate be removed from current housing and placed in other housing.

(i) *Remove from program and/or group activity.* The DHO or UDC may direct that an inmate forego participating in any program or group activity for a specified period of time.

(j) *Loss of job.* The DHO or UDC may direct that an inmate be removed from present job and/or be assigned to another job.

(k) *Impound inmate's personal property.* The DHO or UDC may direct that an inmate's personal property be stored in the institution (when relevant to offense) for a specified period of time.

(l) *Confiscate contraband.* The DHO or UDC may direct that any contraband in the possession of an inmate be confiscated and disposed of appropriately.

(m) *Restrict quarters.* The DHO or UDC may direct that an inmate be confined to quarters or in its immediate area for a specified period of time.

(n) *Extra duty.* The DHO or UDC may direct that an inmate perform tasks other than those performed during regularly assigned institutional job.

(o) *Reprimand.* The DHO or UDC may reprimand an inmate either verbally or in writing.

(p) *Warning.* The DHO or UDC may verbally warn an inmate regarding committing prohibited act(s)

TABLE 5—SANCTIONS FOR REPETITION OF PROHIBITED ACTS WITHIN SAME CATEGORY

[When the Unit Discipline Committee or DHO finds that an inmate has committed a prohibited act in the Low Moderate, Moderate, or High category, and when there has been a repetition of the same offense(s) within recent months (offenses for violation of the same code), increased sanctions are authorized to be imposed by the DHO according to the following chart. (Note: An informal resolution may not be considered as a prior offense for purposes of this chart.)]

Category	Prior offense (same code) within time period	Frequency of repeated offense	Sanction permitted
Low moderate (400 series).	6 months ...	2d offense	Low Moderate Sanctions, plus 1. Disciplinary segregation, up to 7 days. 2. Forfeit earned SGT or non-vested GCT up to 10% or up to 15 days, whichever is less, and/or terminate or disallow extra good time (EGT) (an EGT sanction may not be suspended).
		3d offense, or more	Any sanctions available in Moderate (300) and Low Moderate (400) series.
Moderate (300 series).	12 months	2d offense	Moderate Sanctions (A,C,E–N), plus. 1. Disciplinary segregation, up to 21 days. 2. Forfeit earned SGT or non-vested GCT up to 37½% or up to 45 days, whichever is less, and/or terminate or disallow EGT (an EGT sanction may not be suspended).
		3d offense, or more	Any sanctions available in Moderate (300) and High (200) series.
High (200 series) ..	18 months	2d offense	High Sanctions (A,C,E–M), plus. 1. Disciplinary segregation, up to 45 days. 2. Forfeit earned SGT or non-vested GCT up to 75% or up to 90 days, whichever is less, and/or terminate or disallow EGT (an EGT sanction may not be suspended).
		3d offense, or more	Any sanctions available in High (200) and Greatest (100) series.

TABLE 6—SANCTIONS BY SEVERITY OF PROHIBITED ACT, WITH ELIGIBILITY FOR RESTORATION OF FORFEITED AND WITHHELD STATUTORY GOOD TIME

Severity of act	Sanctions	Max. amt. forfe. GT	Max. amt W/hd SGT	Elig. restoration forfe. SGT	Elig. restoration W/hd SGT	Max. dis seg
Greatest	A–F	100%	Good time creditable for single.	24 mos	18 mos	60 days.
High	A–M	50% or 60 days, whichever is less.	month during which violation occurs. Applies to all categories..	18 mos	12 mos	30 days.
Moderate ...	A–N	25% or 30 days, whichever is less.		12 mos	6 mos	15 days.
Low Moderate.	E–P	N/A		N/A (1st offense) ...	3 mos	N/A (1st offense).
				6 mos. (2nd or 3rd offense in same category within six months).		7 days (2nd offense).
						15 days (3rd offense).

Note: (1) In table 6 headings, “GT” represents both good conduct and statutory good time and “SGT” represents statutory good time. Forfeited good conduct time is not eligible for restoration. Restoration of statutory good time will be approved at the time of initial eligibility only when the inmate has shown a period of time with improved good behavior. When the Warden or his delegated representative denies restoration of forfeited or withheld statutory good time, the unit team shall notify the inmate of the reasons for denial. The unit team shall establish a new eligibility date, not to exceed six months from the date of denial.

(2) An inmate with an approaching parole effective date, or an approaching mandatory release or expiration date who has forfeited good time may be placed in a Community Treatment Center only if that inmate is otherwise eligible under Bureau policy, and if there exists a legitimate documented need for such placement. The length of stay at the Community Treatment Center is to be held to the time necessary to establish residence and employment.

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[53 FR 197, Jan. 5, 1988, as amended at 53 FR 40686, Oct. 17, 1988; 54 FR 38987, Sept. 22, 1989; 54 FR 39095, Sept. 22, 1989; 58 FR 39095, July 21, 1993; 62 FR 50788, Sept. 26, 1997]

§ 541.14 Incident report and investigation.

(a) *Incident report.* The Bureau of Prisons encourages informal resolution (requiring consent of both parties) of incidents involving violations of Bureau regulations. However, when staff witnesses or has a reasonable belief that a violation of Bureau regulations has been committed by an inmate, and when staff considers informal resolution of the incident inappropriate or unsuccessful, staff shall prepare an Incident Report and promptly forward it to the appropriate Lieutenant. Except for prohibited acts in the Greatest or High Severity Category, the Lieutenant may informally dispose of the Incident Report or forward the Incident Report for investigation consistent with this section. The Lieutenant shall expunge the inmate's file of the Incident Report if informal resolution is accomplished. Only the DHO may make a final disposition on a prohibited act in the Greatest Severity Category or on a prohibited act in the High Category (when the High Category prohibited act has been committed by a VCCLEA inmate rated as violent or by a PLRA inmate).

(b) *Investigation.* Staff shall conduct the investigation promptly unless circumstances beyond the control of the investigator intervene.

(1) When it appears likely that the incident may be the subject of criminal prosecution, the investigating officer shall suspend the investigation, and staff may not question the inmate until the Federal Bureau of Investigation or other investigative agency interviews have been completed or until the agency responsible for the criminal investigation advises that staff questioning may occur.

(2) The inmate may receive a copy of the Incident Report prior to being seen by the investigating agency. The investigating officer (Bureau of Prisons) shall give the inmate a copy of the Incident Report at the beginning of the investigation, unless there is good cause for delivery at a later date, such as absence of the inmate from the in-

stitution or a medical condition which argues against delivery. If the investigation is delayed for any reason, any employee may deliver the charge(s) to the inmate. The staff member shall note the date and time the inmate received a copy of the Incident Report. The investigator shall also read the charge(s) to the inmate and ask for the inmate's statement concerning the incident unless it appears likely that the incident may be the subject of criminal prosecution. The investigator shall advise the inmate of the right to remain silent at all stages of the disciplinary process but that the inmate's silence may be used to draw an adverse inference against the inmate at any stage of the institutional disciplinary process. The investigator shall also inform the inmate that the inmate's silence alone may not be used to support a finding that the inmate has committed a prohibited act. The investigator shall then thoroughly investigate the incident. The investigator shall record all steps and actions taken on the Incident Report and forward all relevant material to the staff holding the initial hearing. The inmate does not receive a copy of the investigation. However, if the case is ultimately forwarded to the Discipline Hearing Officer, the DHO shall give a copy of the investigation and other relevant materials to the inmate's staff representative for use in presentation on the inmate's behalf.

[53 FR 197, Jan. 5, 1988, as amended at 62 FR 50791, Sept. 26, 1997]

§ 541.15 Initial hearing.

The Warden shall delegate to one or more institution staff members the authority and duty to hold an initial hearing upon completion of the investigation. In order to ensure impartiality, the appropriate staff member(s) (hereinafter usually referred to as the Unit Discipline Committee (UDC)) may not be the reporting or investigating officer or a witness to the incident, or play any significant part in having the charges referred to the UDC. However, a staff member witnessing an incident may serve on the UDC where virtually every staff member in the institution witnesses the incident in whole or in part. If the UDC finds at the initial hearing that an inmate has committed